

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

PANAMA-BUENA VISTA UNION
SCHOOL DISTRICT.

OAH CASE NO. 2014100290

PREHEARING CONFERENCE ORDER
AND ORDER GRANTING MOTION
TO AMEND COMPLAINT

On November 24, 2014, a telephonic prehearing conference was held in two sessions before Administrative Law Judge Elsa H. Jones, Office of Administrative Hearings. Nicole Hodge Amey, Attorney at Law, appeared on behalf of Parent and Student (collectively, Student). Stacy L. Inman, Attorney at Law, appeared on behalf of Panama-Buena Vista Union School District. Both sessions of the PHC were recorded.

The primary subject of the PHC was the proposed Amended Request for Expedited Due Process Hearing (amended complaint) submitted by Student on November 24, 2014. After hearing argument of the parties, the ALJ issues the following Order.

On October 6, 2014, Student filed an expedited Due Process Hearing Request (complaint), naming Panama-Buena Vista, which included expedited and non-expedited claims. On November 3, 2014, Student filed a request to dismiss the expedited claims of the complaint, on the grounds that Panama-Buena Vista had not suspended Student for more than 10 school days and thus Student was not entitled to an expedited hearing. On November 3, 2014, OAH granted Student's request and dismissed the expedited claims.

Student's proposed amended complaint alleges expedited claims against Panama-Buena Vista, and includes new facts in support of those expedited claims. Further, the proposed amended complaint alleges new and different facts to support additional non-expedited claims against Panama-Buena Vista, and adds non-expedited claims against an additional party, Bakersfield City School District. During the PHC, Student clarified several aspects of the amended complaint, including affirming that the amended complaint does not allege any expedited claims against Bakersfield City School District, and that the amended complaint, unlike the complaint, does not assert any claim against Panama Buena Vista based upon any failure to provide prior written notice.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such

permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C. §1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The request to amend is timely and is granted. The amended complaint shall be deemed filed as of November 24, 2014. All applicable timelines shall be reset as of November 24, 2014. OAH will issue a scheduling order with the new dates, and the scheduling order shall include expedited dates regarding Student's expedited claims against Panama Buena Vista.

Panama-Buena Vista's Motion to Limit Timelines, filed herein on November 19, 2014, is deemed moot because it was directed to the complaint, but it may be re-filed with respect to the amended complaint.

IT IS SO ORDERED.

DATE: November 25, 2014

/s/

ELSA H. JONES
Administrative Law Judge
Office of Administrative Hearings

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.